



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nanaimo Aboriginal Centre  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNC-MT

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The Tenant applied on January 18, 2022 for an order to cancel a One Month Notice to End Tenancy For Cause, dated December 8, 2021 (the One Month Notice), noting she needed more time to dispute the Notice.

The hearing started on time, and was attended by the Landlord, but not the Tenant. The Landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified he received the Tenant's Notice of Dispute Resolution Proceeding (NDRP) on an unknown date, but did not receive any evidence from the Tenant. Based on the Landlord's testimony, I find the Tenant served the NDRP on the Landlord in accordance with section 89 of the Act.

The Landlord testified he served responsive evidence on the Tenant in person on March 7, 2022. Based on the Landlord's undisputed testimony, I find the Landlord served responsive evidence on the Tenant on March 7, 2022, in accordance with section 88 of the Act.

### Preliminary Matters

As the Tenant did not attend the hearing, I dismiss her application to cancel the One Month Notice.

I have added the Landlord's business name to the cover page of this decision. This name is found on the signed tenancy agreement, so the Tenant would have had full knowledge of the business name and will not be prejudiced. This amendment, in accordance with section 64(3)(c) of the Act, is to allow the decision and order of possession to reflect the legal name of the Landlord.

### Issue to be Decided

Is the Landlord entitled to an order of possession?

### Background and Evidence

The Landlord confirmed the following regarding the tenancy. It began June 1, 2018; rent is \$913.50, due on the first of the month; and the Tenant paid a security deposit of \$450.00, which the Landlord still holds.

The Landlord testified he served the One Month Notice on the Tenant by attaching a copy to the door on December 8, 2021, and submitted as evidence a Proof of Service form, signed by a witness.

A copy of the One Month Notice is submitted as evidence. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because:

- the Tenant is repeatedly late paying rent; and
- the Tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Details of Cause(s) section of the One Month Notice provides supplemental information related to the reasons indicated, stating that since the beginning of the tenancy, the Tenant has been issued ten 10 Day Notices to End Tenancy for Unpaid Rent; and that the Tenant's son has been caught smoking on the property twice after a warning letter was issued.

The Landlord testified that the Tenant has an ongoing history of paying rent late, and submitted numerous 10 Day Notices as evidence. The Landlord testified he has had multiple conversations with the Tenant regarding the need to pay rent on time, but the Tenant kept paying rent late. The Landlord testified that the Tenant has paid rent for April 2022, but that it was late.

The Landlord confirmed that the breach of the material term is section 30 of the tenancy agreement, which forbids smoking on the property. The Landlord submitted as evidence letters dated September 16, 2021 and December 15, 2021 which state that the Tenant's family members were smoking on the property, in contravention of the tenancy agreement.

### Analysis

Based on the Landlord's testimony and the evidence before me, I find the Landlord served the Tenant the One Month Notice on December 8, 2021, in accordance with section 88 of the Act.

As it is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form, I find the One Month Notice meets the form and content requirements of section 52 of the Act.

The Landlord has provided affirmed undisputed testimony and documentary evidence that the Tenant was repeatedly late paying rent, and that the Tenant breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Section 55 of the Act states:

### **Order of possession for the landlord**

**55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the rental unit if

(a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and

(b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

As I find the One Month Notice complies with section 52 of the Act, and I have dismissed the Tenant's application to dispute the Notice as she has not attended the hearing, I find the Landlord is entitled to an order of possession.

Conclusion

The One Month Notice is upheld.

The Landlord is granted an order of possession which will be effective 1:00 p.m. on April 30, 2022.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2022

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Residential Tenancy Branch